

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GERALD A. WILMER,	§
	§ No. 59, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 9603002509
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 3, 2009
Decided: March 18, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

ORDER

This 18th day of March 2009, upon consideration of the appellant's response to the notice to show cause and the State of Delaware's reply, it appears to the Court that:

(1) On February 9, 2009, the appellant, Gerald A. Wilmer, filed a notice of appeal from the January 12, 2009 interlocutory report of the Superior Court commissioner, which recommended that the Superior Court deny the appellant's motion for postconviction relief pursuant to Superior Court Criminal Rule 61.¹ On February 9, 2009, the Clerk of the Court issued a notice directing Wilmer to show cause why his appeal should not be

¹ Super. Ct. Crim. R. 62.

dismissed pursuant to Supreme Court Rule 29(b) due to this Court's lack of jurisdiction to consider an appeal directly from the report and recommendation of a Superior Court commissioner.²

(2) Wilmer filed a response to the notice to show cause on March 3, 2009. In the response, he essentially argues that this Court should entertain his appeal in the interest of justice, but does not address the jurisdictional issue.

(3) This Court's appellate jurisdiction is limited to decisions issued by judges of a court.³ This Court does not have the authority to hear an appeal directly from a report and recommendation of a Superior Court commissioner without intermediate review by a Superior Court judge.⁴

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

² *Johnson v. State*, 884 A.2d 475, 479 (Del. 2005).

³ *Id.*

⁴ *Id.*; *Owens v. State*, 2008 WL 391434 (Del. Supr.); *Floyd v. State*, 2007 WL 1206947 (Del. Supr.); *Johnson v. Williams*, 2006 WL 197160 (Del. Supr.). See Super. Ct. Civ. R. 132 (governing authority of Superior Court commissioners).